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| 09/966,882 | 09/28/2001 | Joseph E. Kaminkow | 0112300-761 | 4286 |

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EXAMINER

MARKS, CHRISTINA M

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3713

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DATE MAILED: 07/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

N.K

Office Action Summary

Application No.

09/966,882

Applicant(s)

KAMINKOW ET AL.

Examiner

C. Marks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Vancura (US Patent No. 6,413,160).

Vancura discloses a gaming device that presents a plurality of selections that are each individually presented to a player for a limited time period by a display device (Column 6, lines 13-39). The selections are each individually selectable and are associated with an individual time in which they will be present (Column 7, lines 14-27). There is an input in communication with the processor for enabling the player to accept each selection, if the player so chooses, during the limited time it is shown (Column 7, lines 14-27). The player is provided an award that includes values associated with the selections chosen by the player during the time period for each of the selections (Column 3, lines 42-49; Column 6, lines 13-39; Column 7, lines 14-27). A value is associated with each selection, which is revealed upon the acceptance of a selection (Column 3, lines 42-49; Column 7, lines 14-27). This award includes the value associated with a predefined number of selections and the result of the selection (Column 7, lines 14-27). The gaming device inherently includes a processor in communication with the display device. The limited time period for the entire response is displayed to the player by the display device (Column 4, lines 21-39). Further, Vancura also discloses that a timer can be employed

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for each selection and is displayed to the player to dictate the limited time period (Column 7, lines 14-27). Vancura discloses a predetermined number of picks for each player. Each player is initially assigned one pick and upon a certain selection may be awarded additional picks, thus increasing the number of selections that may be chosen by the player based upon the result of the selection chose (Column 7, lines 13-27).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vancura (US Patent No. 6,413,160) in view of Acres et al. (US Patent No. 6,364,768).

What Vancura discloses has been discussed above and is incorporated herein.

Vancura discloses that certain selections yield another chance at picking a selection but does not disclose that certain selections can yield speed changes wherein the time period for subsequent selections is increased or decreased.

Acres et al. disclose a gaming system wherein the bonus round is timed in a similar manner to that which is disclosed by Vancura. Acres et al. focuses on the timing relating to a bonus round and does not disclose specific bonus games therein. Acres et al. also discloses that when placing time limits on bonus rounds, the timer associated with the round can be set by a number of different methods including increasing or decreasing the time allotted for the round based upon the outcomes within the bonus round (Column 8, lines 40-45) wherein the more a player is winning, the longer the bonus is employed.

It would have been obvious to one of ordinary skill in the art to incorporate the timing specifications of Acres et al. into the timed segments of Vancura. One of ordinary skill in the art would be motivated to make such an incorporation for a number of reasons. First, by varying the amount of time available for the next selection based upon the previous selection the player could be rewarded for choosing certain selections and penalized for choosing others. In the trivia embodiment of Vancura, this would serve as positive enforcements to encourage players in their selections. Further, by varying the time allowed to choose, more excitement would be added to the game in that the player would feel the anticipation of not knowing how long they will have to choose the next selection and thus feel a rush. Lastly, by making such an incorporation, the system of Vancura could be expanded, as is known in the art to include more than a single question in the bonus round wherein the player is given more time based upon the performance of the previous selections. By these incorporation, one of ordinary skill in the art would

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understand player excitement, anticipation and interest would be increased thus encouraging players to play the game longer thus placing more bets and increasing the odds of the casino garnishing more profit.

Claims 1-9, 12-14, 21-22, 24-25, and 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acres et al. (US Patent No. 6,231,445) in view of Hughs-Baird et al. (US Patent No. 6,439,995).

Acres et al. disclose a gaming device that comprises a display (FIG 2, reference 58), a processor. The system also includes a bonus timer that is started upon receipt of the bonus token (signifying the machine will go into bonus mode) and the timer will count down until $t=0$ at which time the bonus period expires (Column 7, lines 1-10). Acres et al. disclose that a number of bonus selections or spins can be played in the bonus mode and the time of the bonus timer can be increased or decreased based upon the spin outcomes at the selected gaming machine (Column 8, lines 41-45) thus a speed change is based upon the results of the player playing the game. It is obvious to the system of Acres et al. to display the contents of this bonus timer.

Acres et al. disclose that a number of bonus games types can be used within the system (Column 4, lines 1-2) and does not go into the specifics of the bonus game.

Hughs-Baird et al. discloses a bonus game wherein a plurality of selections are presented to the player by the display device (FIG 5). Each selection is individually selectable and is associated with an individual prize (FIG 5). The system includes an input in communication with the processor for enabling the player to accept or reject certain selections (FIG 2). An award is then provided to the player based upon the selection and the award includes the values

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associated with the predefined number of selections (FIG 5). Hughs-Baird et al. further includes increase-picks wherein the predefined number of selections available is increased by picking the associated selection (FIG 5). Hughs-Baird et al. includes an outcome that relates to moving on into a next level wherein the prizes are of a different value range (Column 3, lines 1-10)

It would have been obvious to one of ordinary skill in the art that the bonus game of Hughs-Baird et al. could be incorporated into the system of Acres et al. wherein the selections of the bonus rounds are timed. By incorporating the bonus game of Hughs-Baird into the system of Acres et al., one of ordinary skill in the art would understand that the bonus game of Hughs-Baird et al. would thus become a timed bonus game wherein each selection is available only for a certain amount of time associated with the bonus round. The player must thus accept the selections during the limited amount of time and the award would thus be based on the selections as well as the time. One of ordinary skill in the art would further understand based upon the disclosure of Acres et al. that time can be increased or decreased based on outcomes and that the outcomes of Hughs-Baird et al. would be obviated to include such instances wherein a time increase or decrease were among the plurality of available choices instead of just monetary and pick increases. It would further be obvious to one of ordinary skill in the art that the level increase pick in Hughs-Baird et al. would be ideal to perform this function. The disclosure of Acres regarding the setting of the timer would motivate and obviate this feature in order to increment and decrement the bonus time based upon player selections or spins. Therefore, because of the identifying factor of the level-increase, it would be an obvious candidate to instantiate this change. By rewarding players with time increments as well as pick increments the player would feel more anticipation and excitement.

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Regarding claims 6-7, 9, 14, 24, 25, Hughs-Baird et al. discloses that selections of the first group and second group are of different ranges, which can be seen in FIG 5. As disclosed above, when implementing Hughs-Baird et al. in view of Acres et al., it would be obvious to implement the time change between these levels as this is a distinctive event, as required by Acres et al. for a time change, thus the representation of the time change would also include the representation of the values being changed. Further, it is notoriously well known in the art to weight values within ranges in order to have certain values chosen more than others. This is an important aspect of casino management used to control the odds in which awards or other features are present. This feature can be viewed in Hughs-Baird et al. (FIG 5, Display 2) wherein the "2" is weighted to appear twice in order to control the selection. Hughs-Baird et al. also discloses that as levels increase, the value ranges have greater average values (FIG 5). As disclosed above, it would be obvious to one of ordinary skill in the art that the level-change symbol would be associated with a time change, thus changing the time for the bonus round as well as the range of selectable symbols. Therefore, these ranges would thus be associated with a time limit as disclosed by Acres et al. in order to limit the length of the bonus round.

Regarding claim 8, Acres et al. discloses that a time change (speed change) can occur based on certain outcomes of the gaming machine. Thus, one of ordinary skill in the art would understand that this could occur at any time and is thus incorporated in any predefined ranges the casino has established.

Regarding claims 12 and 13, Hughs-Baird et al. discloses that the award provided to the player includes values from a predefined number of selections wherein the award is based on the mathematical combination of addition (FIG 5).

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Regarding claim 27, Hughs-Baird et al. discloses the award provided to the player includes values that are selected from the plurality of values ranges until a predefined number of values are accepted (FIG 5).

Regarding claim 28, the use or terminators to end a bonus award round is notoriously well known in the art (as disclosed by Hughs-Baird et al.) and thus would have been obvious to one of ordinary skill in the art at the time of invention as a design choice over the method of Hughs-Baird et al. where termination is obtained by a certain number of choices, not an actual termination symbol.

Claims 10-11, 15-17, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acres et al. (US Patent No. 6,231,445) in view of Hughs-Baird et al. (US Patent No. 6,439,995) in view of Baerlocher et al. (US Patent No. 6,506,118).

What Acres et al. and Hughs-Baird et al. disclose has been discussed above and is incorporated herein.

Acres et al. and Hughs-Baird et al. do not disclose displaying the value range that is associated with the hidden selections. Hughs-Baird et al. does however include a touchscreen (FIG 2). However, displaying this range is notoriously well known in the art as well as using touch screens to implement input.

Baerlocher et al. disclose such a value range display that displays the value range from which the selection ranges can be shown as well as the selection itself when not chosen (FIG 3E and 3G, reference 118). Baerlocher et al. disclose that these non-chosen selections are also

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revealed to the user (FIG 3F to 3G). Baerlocher et al. also disclose that it is preferable to use a touch screen as it enables a player to input decisions based on the area the player touches.

Therefore, it would have been obvious to one of ordinary skill in the art to display the value range, reveal the symbols that are not chosen by the player as well as using a touch screen. Such incorporations would provide player convenience as well as satisfy the player's curiosity. One of ordinary skill in the art would be motivated to display the value range as it would be inform the player of the current values from which the bonus will be chosen so the player can gauge their reward against all possible rewards, as is known in the art to increase player satisfaction and willingness to play a bonus game. Further, one of ordinary skill in the art would be motivated to display all of the symbols upon completion of the round (or as time elapsed) in order to satisfy the player curiosity as to the other possible winnings. It is known in the art that players like to measure their performances against the odds; therefore, by displaying what the player could have won, the player's curiosity involving their performance could be satisfied. Lastly, touch screens are notoriously well known in the art and would be obvious design choices for the required input into the system.

Claims 18-20, 26, 29, and 31-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acres et al. (US Patent No. 6,231,445) in view of Hughs-Baird et al. (US Patent No. 6,439,995) in view of Acres (US Patent No. 6,231,445). ¹⁷⁶⁸

What Acres et al. and Hughs-Baird et al. disclose has been discussed above and is incorporated herein.

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Acres et al. does disclose the limited time period is based on the bonus timer which can be displayed to the user in a variety of means from a clock to music. Acres et al. do not disclose that the time period is based upon the movement of a selection at a predefined speed through a predefined distance.

Acres ('445) disclose that a bonus event has a certain time period and the timer period is disclosed by moving an item a predefined speed (velocity) through a predefined distance (Column 6, lines 65-67; Column 7, lines 1-13). This object thus represents the time period (bonus timer) for the bonus round.

The method in which the bonus timer is indicated would have been obvious to one of ordinary skill in the art. Henceforth, displaying the time remaining for a selection by moving the selection at a predefined speed (velocity) through a predefined distance, as taught by Acres ('445) would have been obvious to one of ordinary skill in the art as a means to dictate the time remaining for a selection to be made. Thus, one of ordinary skill in the art would be motivated to make the incorporation as it would provide a more graphical and interactive method of showing the player how much time is remaining by moving the object to an ending location thus directly representing the distance until the object will no longer be selectable, thus the player will only have to focus on the object and not a separate clock, thus making the device more user friendly.

It further would have been obvious to one of ordinary skill in the art that when the gaming system of Acres et al. reached a situation wherein the time of the bonus timer were to be changed, the object speed (velocity change) would be increased or decreased from a first speed to a second speed as required.

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Regarding claims 20, 26, 33-36 as disclosed above it would thus be obvious that when the objects were moving at different speed to represent different "rounds" of the bonus game, their values would be within the specified and different range for that round. It is also disclosed by Acres et al. that this change can be a decrease in time. Thus the value ranges are associated with the different speeds and velocities and are increased as the user progressed through the game to include higher values. Further, once near the highest value range, the probability of the change card is lowered as it is shown that the feature is therefore no longer used (Hughes-Baird et al. FIG 5).

Regarding claim 31, it is disclosed by Acres et al. that certain circumstances can include time change factors and thus it would be obvious to the system of Acres wherein the velocity of the object represents time, that the time change would be represented as a velocity change and thus would be an obvious design choice to one of ordinary skill in the art.

Regarding claim 32, it would have been obvious to one of ordinary skill in the art that a design alternative to changing the velocity of the moving object would be to change the distance as both would represent a change in the timing period to which the velocity and distance actually represent.

Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Acres et al. (US Patent No. 6,231,445) in view of Hughes-Baird et al. (US Patent No. 6,439,995) in view of Acres (US Patent No. 6,231,445) further in view of Baerlocher et al. (US Patent No. 6,506,118).

What Acres et al., Hughes-Baird et al., Acres, and Baerlocher et al. disclose has been discussed above and is incorporated herein.

As disclosed above, Baerlocher et al. disclose revealing the remaining indicia when the bonus period is over. Also disclosed above, such a disclosing is well known and thus would be obvious to the system of Acres et al. in view of Hughs-Baird et al. when the game is completed (time period is over). Hence, because the distance of Acres represents a time period, it would be further obvious to one of ordinary skill in the art that application of the above disclosed concept would be obvious to Acres and would include revealing awards once the object has passed a predefined distance, thus representing a predetermined time.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. 6,569,015: Offer and acceptance scheme wherein the player can choose to keep a received value or draw for a new one.

US Patent No. 6,413,161: Player is awarded the mathematical function of their choices in the form of addition or multiplication of the values received.

US Patent No. 6,309,300: Gaming device that provides the user with a plurality of selection wherein the number of selections is predefined and can be increased or decreased throughout the bonus round.

US Patent No. 6,117,009: Gaming device wherein a plurality of balloons moves through a predetermined space at a predetermined speed and the user picks a selection from the balloons from which a bonus will be awarded.

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US Patent No. 6,375,187: Gaming device that offers the player a selection of first choosing the number of selections.


US Patent No. 6,582,306: Invention involves a timed bonus round wherein the player can make selections regarding their award amount.

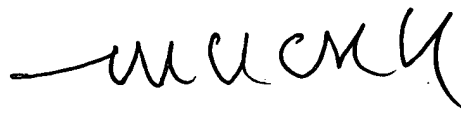
US Patent Publication 2002/0049084: Gaming device with bonus round wherein the players can move between rounds by having success in an earlier round.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Marks whose telephone number is (703)-305-7497. The examiner can normally be reached on Monday - Thursday (7:30AM - 5:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael O'Neill, Acting SPE, can be reached on (703)-308-3484. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-872-9302 for regular communications and (703)-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1148.


cmm
July 9, 2003


MICHAEL O'NEILL
PRIMARY EXAMINER